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October 30, 2010

Honorable Cathy Seibel
United States District Judge
300 Quarropas Street
White Plains, New York 10601

Re: U.S.A. v. Sonny Desposito
S2 09 CR 430 (CS)

Dear Judge Seibel,

I write to pose objection to the Government's *in limine* motion, filed yesterday, seeking to introduce in its case in chief evidence of an uncharged offense allegedly committed by the defendant, specifically, the January 21, 2009 car fire on Bellows Lane, Chestnut Ridge, New York. As the Government notes, Mr. Desposito has not been charged with any violation of law, federal, state or local, in connection with that alleged incident. Moreover, the Government has no evidence to link Mr. Desposito with that fire. The Government suggests in its motion that a witness will testify to the effect that Mr. Desposito admitted to him that he (the Defendant) had set a car on fire "a day or two earlier to see whether the police would respond." Gov't Memo at p. 6.


I respectfully request that the Court reserve decision on the Government's motion pending a more detailed pre-trial proffer in open court, with the defense being provided with the witness' statements or notes thereof, so that the Court can make a preliminary determination as to the reliability of the evidence being proffered. The one-line statement in the Government's motion, quoted above, is simply too vague to permit Your Honor to make a proper determination on this critical point. In that regard, I incorporate by reference and re-assert the Defendant's arguments set forth under "Point XII" of the Memorandum of Law filed with the Court by Michael Burke, Esq., on April 20, 2010. More specifically, I assert that the Government's limited proffer does

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not satisfy the various factors discussed by Judge Weinstein in his Weinstein's Evidence Manual Sec. 7.01[5][b][ii].

I am also submitting herewith under separate cover a renewed "Motion to Dismiss" with respect to some of the counts of the indictment.

Respectfully yours,



DOMENICK J. PORCO
DJP/af

cc.(by ECF and regular mail): Sarah R. Krissoff, AUSA